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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,968	04/14/2006	Marco Poppi	1034170-000031	5120

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
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3721

NOTIFICATION DATE	DELIVERY MODE
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06/23/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/575,968	Applicant(s) POPPI, MARCO	
	Examiner GLORIA R. WEEKS	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 11-20 is/are rejected.
- 7) ☒ Claim(s) 6 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment and remarks received on April 4, 2008.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 4, 2008 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-9 and 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fontanazzi (USPN 6,038,838).

In reference to claims 1, 2 and 7-9, Fontanazzi discloses a form-and-seal unit comprising: a fixed structure 3, 5; forming means which interact cyclically with a tube of packaging material 14, the forming means comprise at least two pairs of jaws 20 having sealing means 12, 13 movable between an open position (figure 5) and a closed position (figure 6); respective pairs of forming flaps 37 carried by the respective jaws 20, and having respective half-shell forming

Art Unit: 3721

portion 22 capable of defining various volumes/types of packages (column 1 lines 57-65); two fixed cam assemblies 44, 50, 51 on opposite sides of the forming means; two cam follower rollers 42, 52 carried by the forming flaps 21; wherein the fixed cam means 44, 50, 51 define a first pair of work profiles 78-80 engageable by the cam follower roller 42 of a first type of forming flap during longitudinal movement of the first type of forming flap, and a second pair of work profiles 50a, 51a engageable by the cam follower means 52, 53 of the second type of forming flap during longitudinal movement of the second type of forming flap, the first pair of work profiles 78-80 longitudinally overlapping the second pair of work profiles 50a, 50b, 51a, 51b in a longitudinal direction of the fixed cam means 44, 50, 51, such that the cam follower means 42 of the first type of forming flap do not contact the second pair of work profiles 50a, 50b, 51a, 51b.

Regarding claims 3-5, Fontanazzi discloses cam means 44, 50, 51 including flat plate cam assemblies each having a top cam profile 78, 50a, 51a that controls the approach movement of the forming flaps 21, and two bottom cam profiles 79, 80, 50b, 51b that control the closing movement of the forming flaps 21.

In reference to claims 11-20, Fontanazzi discloses a form-and-seal unit comprising: a fixed structure 6, 7 symmetrically positioned relative to a vertical longitudinal plane; forming means which interact cyclically with a tube of packaging material 14, the forming means comprise at least two pairs of jaws 20 having sealing means 12, 13 movable between an open position (figure 5) and a closed position (figure 6); respective pairs of forming flaps 37 carried by the respective jaws 20, and having respective half-shell forming portion 22 capable of defining various volumes/types of packages (column 1 lines 57-65); a fixed cam plate 50, 51 having a first and second pair of work profiles 50a, 50b, 51a, 51b, wherein the first and second work

Art Unit: 3721

profiles define a top cam profile 50a, 51a, spaced a distance from the vertical longitudinal plane, the fixed cam further having a bottom cam profile 50b, 51b, 79, 80 spaced a second and different distance from the vertical longitudinal plane with respect to the top cam profile (figure 2); and two cam follower means 52, 53 carried by the forming flaps 21.

Allowable Subject Matter

5. Claims 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-5, 7-9 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-F 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit
3721

June 19, 2008